

ENTERED

March 03, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ELIBERTO GARZA,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

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CIVIL ACTION NO. 2:19-CV-319

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Jason B. Libby's Memorandum and Recommendation (M&R), entered on January 31, 2020. (D.E. 13). The M&R recommends that the Court grant Respondent's motion for summary judgment and dismiss this action as time barred. It is further recommended that a Certificate of Appealability be denied.

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the magistrate judge's memorandum and recommendation is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its

entirety. (D.E. 13). Accordingly, Respondent's motion for summary judgment (D.E. 10) is **GRANTED**, and this action is **DISMISSED** as time barred. Accordingly, Petitioner's motion to withdraw his petition (D.E. 12) is **DENIED**. A Certificate of Appealability is also hereby **DENIED**.

SIGNED and ORDERED this 3rd day of March 2020.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE